

Introduced by Senator Wolk
(Coauthor: Assembly Member Eng)

February 27, 2009

An act to amend Section 1569.884 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, as introduced, Wolk. Residential care facilities for the elderly: admission agreements.

Existing law provides for the licensure and regulation of residential care facilities for the elderly, as defined, by the State Department of Social Services, including, among other things, regulation of admissions procedures and agreements. Under existing law, a violation of these provisions is punishable as a misdemeanor.

This bill would require that if an admission agreement includes an arbitration agreement, that arbitration agreement comply with prescribed requirements. The bill would provide that the arbitration agreement requirements shall not invalidate an arbitration agreement that does not meet the requirements if the arbitration agreement existed prior to the effective date of this bill.

By expanding the definition of a crime, this bill would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1569.884 of the Health and Safety Code
2 is amended to read:

3 1569.884. The admission agreement shall include all of the
4 following:

5 (a) A comprehensive description of any items and services
6 provided under a single fee, such as a monthly fee for room, board,
7 and other items and services.

8 (b) A comprehensive description of, and the fee schedule for,
9 all items and services not included in a single fee. In addition, the
10 agreement shall indicate that the resident shall receive a monthly
11 statement itemizing all separate charges incurred by the resident.

12 (c) A facility may assess a separate charge for an item or service
13 only if that separate charge is authorized by the admission
14 agreement. If additional services are available through the facility
15 to be purchased by the resident that were not available at the time
16 the admission agreement was signed, a list of these services and
17 charges shall be provided to the resident or the resident's
18 representative. A statement acknowledging the acceptance or
19 refusal to purchase the additional services shall be signed and dated
20 by the resident or the resident's representative and attached to the
21 admission agreement.

22 (d) An explanation of the use of third-party services within the
23 facility that are related to the resident's service plan, including,
24 but not limited to, ancillary, health, and medical services, how
25 they may be arranged, accessed, and monitored, any restrictions
26 on third-party services, and who is financially responsible for the
27 third-party services.

28 (e) A comprehensive description of billing and payment policies
29 and procedures.

30 (f) The conditions under which rates may be increased pursuant
31 to Section 1569.655.

32 (g) The facility's policy concerning family visits and other
33 communication with residents, pursuant to Section 1569.313.

34 (h) The facility's policy concerning refunds.

35 (i) Conditions under which the agreement may be terminated.

36 (j) An explanation of the facility's responsibility to prepare a
37 relocation evaluation, for each resident and a closure plan and to

1 provide notice in the case of an eviction pursuant to Section
2 1569.682.

3 *(k) (1) If the admission agreement includes an arbitration*
4 *agreement, the arbitration agreement shall comply with all of the*
5 *following:*

6 *(A) Clearly indicate that the agreement to arbitrate is voluntary*
7 *and not a precondition for admission.*

8 *(B) Be written on a form that is separate from the rest of the*
9 *admission agreement.*

10 *(C) Clearly indicate to the parties that, by signing the arbitration*
11 *agreement, both parties are voluntarily and knowingly waiving*
12 *their right to a trial by jury or court trial and, instead, accepting*
13 *the use of arbitration.*

14 *(2) The arbitration agreement requirements in paragraph (1)*
15 *shall not invalidate an arbitration agreement that does not meet*
16 *the requirements if the arbitration agreement existed prior to the*
17 *effective date of this subdivision.*

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.